

EXHIBIT 13

Floating Point

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OSDL payments to Groklaw?

March 27th, 2007 · [No Comments](#)

In mid February I reported in Forbes that SCO Group was attempting to serve a subpoena to Pamela Jones, author of the Groklaw blog, but could not find her.

On Feb. 12, Kenneth Brakebill, a lawyer for Novell, told me, “SCO recently served a Notice of Deposition document on Novell informing that it wanted to take the deposition of Pamela Jones.” Later I asked Brakebill when Novell received this notice. He told me Novell’s lawyers received the notification on Jan. 30. I asked if Novell had told PJ about this. “Novell has no further comment on this,” was Brakebill’s reply via email.

SCO officials say PJ is aware of their attempts to find her and is ducking service. SCO has long claimed that PJ has connections to IBM, something that PJ and IBM both deny. Nearly two months after setting out to serve Jones with a subpoena, SCO says they still can’t find her, despite numerous attempts.

It’s odd that PJ would duck a subpoena because she says she’s a paralegal and has a high respect for the legal system.

So I’ve been asking around about this and here’s what I’ve heard. My source is a former high-ranking executive at Open Source Development Labs (OSDL), a vendor-funded organization whose sponsors include IBM.

In 2005 OSDL created a fund called the “IP Fund.” The purpose of this fund was to help create the Software Freedom Law Center. That’s a legal organization run by Eben Moglen, the law professor who represents the Free Software Foundation. Contributors to the IP fund included IBM. Total raised was several million dollars, which went to Moglen’s foundation.

In late 2005, according to my source, Pamela Jones contacted Diane Peters, the general counsel for OSDL, and asked if OSDL would give some money to Groklaw. Peters discussed this with Stuart Cohen, who was then the chief executive of OSDL.

Between late 2005 and early 2006, OSDL paid “\$40,000 to \$50,000” to Groklaw, my source says.

“Diane thought it was a good idea. She talked about it with the IP subcommittee. It wasn’t a lot of money. We thought PJ was doing good work. She was putting interesting material in the marketplace that nobody else was providing, and a perspective that wasn’t out there. And we didn’t want to go to the trouble — the last thing we wanted to do is give updates like that out of OSDL. She was doing such a good job. We were pointing people to her. People would ask us what’s going on with SCO, and we’d give anecdotal information but say if you really want details you ought to go look at Groklaw. She was the most complete day in and day out of anybody. And we didn’t want to do it. It didn’t make any sense for us to compete with her for information. We had links on our site to her site because it was pretty independent and pretty good.”

My source advised me to contact Diane Peters. Though OSDL has merged with another group to become “The Linux Foundation,” Peters remains general counsel for the new organization.

I went through PR channels at the foundation to ask Diane Peters whether OSDL had provided money to Groklaw. Peters ducked me for a few days and then refused to comment. The foundation’s PR rep also refuses to provide a statement.

PJ did not respond to an email from me on this.

Since some of the IP Fund money came from IBM, I asked IBM why they would help fund a journalist who was covering an IBM lawsuit.

A PR rep at IBM says via email: “IBM does not have any agreements or arrangements with Groklaw or Pamela Jones. IBM, like many other companies, has provided funding to OSDL in the past, and you would have to contact them about how that funding was disbursed.”

My source, who was involved in making the OSDL payments to Groklaw, says he believes there was nothing wrong with OSDL helping PJ. “She needed money on some infrastructure issues. We thought it was a reasonable thing. If she’d asked for half a million that would be different.”

However two former OSDL board members don’t agree. Chris Stone, former vice chairman of Novell, was on the OSDL board in 2003 and 2004. Stone says paying money to Groklaw “would not have been a good thing for OSDL. OSDL was meant to be above the fray, not investing in groups or web sites.” Stone says he would not have voted to approve payments to Groklaw. “I would not have done payments to the Software Freedom Law Center either,” he says.

Another former OSDL board member, who also represented a large IT company and spoke on the condition of anonymity, told me he’s not aware that OSDL made payments to Groklaw, “but if they did that, it would be very stupid. OSDL was supposed to be non-partisan. If Stuart Cohen did that, then he’s very lucky that none of us knew. If this really happened, it’s huge. It’s major. That site (Groklaw) was set up to campaign against SCO in the IBM lawsuit. OSDL did not belong in the middle of that lawsuit. It is a huge hornet’s nest.”

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